

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOSEPH COLSTON,

Plaintiff,

v.

Case No. 4:15-cv-13321

Judge Linda V. Parker

Magistrate Judge Anthony P. Patti

CVS PHARMACY, INC.,

Defendant.

/

**ORDER GRANTING AS UNOPPOSED DEFENDANT WOODWARD
DETROIT CVS, L.L.C.'S MOTION TO COMPEL DISCOVERY (DE 31)**

Plaintiff Joseph Colston filed the instant lawsuit *pro se* on September 21, 2015. The facts underlying Plaintiff's complaint stem from an August 2015 prescription which was allegedly filled with the wrong medication. (DE 1 ¶¶ 1-9.) Among other things, Plaintiff seeks payment for "all medication and medical bills Plaintiff may incur as a result of . . . ingesting Microzide." (DE 1 ¶ (b).) Defendant answered the complaint on November 20, 2015. (DE 12.)¹ I am scheduled to conduct a settlement conference in this case on July 12, 2016. (DEs 22, 23 & 27.)

¹ On January 27, 2016, Judge Parker entered an opinion and order granting Defendant's motion to dismiss claims related to violations of constitutional rights and claims for punitive damages. (DEs 11, 20.)

Currently before the Court is Defendant Woodward Detroit CVS, L.L.C.'s May 4, 2016 motion to compel discovery concerning its February 1, 2016 first set of interrogatories (Nos. 1-29), its February 1, 2016 first request for production of documents (Nos. 1-33) and its March 17, 2016 supplemental request for production of documents (Nos. 1-4). (DE 31.) Judge Parker has referred this motion to me for hearing and determination. (DE 32.)

Plaintiff has not opposed the instant motion. "A respondent opposing a motion must file a response, including a brief and supporting documents then available." E.D. Mich. LR 7.1(c)(1). "A response to a nondispositive motion must be filed within 14 days after service of the motion." E.D. Mich. LR 7.1(e)(2)(B). Thus, in the absence of a scheduling order stating otherwise, Plaintiff's response to Defendant's May 4, 2016 motion (DE 31) would have been due on or about Monday, May 23, 2016. *See* Fed. R. Civ. P. 6(a), 6(d). Here, by way of this Court's May 17, 2016 order, Plaintiff's response was due on June 16, 2016. (DE 36.) To date, Plaintiff has not filed a response.

Accordingly, Defendant's May 4, 2016 motion to compel discovery (DE 31) is **GRANTED AS UNOPPOSED**. Specifically, no later than **Thursday, July 7, 2016**, Plaintiff **SHALL** serve complete answers and responses, without objection (all objections having been waived as untimely), to **(a)** Defendant's February 1, 2016 first set of interrogatories (Nos. 1-29), **(b)** Defendant's February 1, 2016 first

request for production of documents (Nos. 1-33), and (e) Defendant's March 17, 2016 supplemental request for production of documents (Nos. 1-4). (See DE 31 at 9-18, 20-29 & 31-35.)

At this time, Defendant's requests for "costs and attorneys' fees" (DE 31 at 2, 6) are **DENIED WITHOUT PREJUDICE**. Defendant may renew this request in the event Plaintiff does not comply with the foregoing order.

Finally, the Court is aware of the dates set forth in Judge Parker's March 4, 2016 amended scheduling order, particularly the impending July 5, 2016 discovery cut-off. (DE 25.) Defendant is invited to seek any necessary extension of the discovery deadline by way of motion.

IT IS SO ORDERED.

Dated: June 22, 2016



Anthony P. Patti
UNITED STATES MAGISTRATE JUDGE